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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/609,101

06/30/2003

Michael T. Konczal

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9233

7590

07/21/2005

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EXAMINER

GOINS, DAVETTA WOODS

ART UNIT

PAPER NUMBER

2632

DATE MAILED: 07/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/609,101

Applicant(s)

KONCZAL, MICHAEL T.

Examiner

Davetta W. Goins

Art Unit

2632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,7,9-12 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,9-12 and 16 is/are rejected.
- 7) ☒ Claim(s) 7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Allowable Subject Matter*

1. Claim 7 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### *Claim Rejections - 35 USC § 103*

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tigwell (US Pat. 4,769,629) in view of Rush, III (US Pat. 5,621,922).

In reference to claims 1, 16, Tigwell discloses a) the claimed light emitting means disposed on a rearward portion of the helmet, which is met by a light 10 located on a conventional motorcycle's helmet 12 (col. 2, lines 10-31; Figure 1), b) the claimed at least one primary axis accelerometer responsive to deceleration, which is met by any suitable type of accelerometer may be used to measure deceleration for actuating the light such as a first mercury switch 14 used for detecting deceleration (col. 2, lines 10-31), and c) the claimed power source coupled with the light emitting means and the switching means, which is met by a voltage source 38 (col. 2, lines 50-55). Although Tigwell does not specifically disclose the claimed at least one reference axis accelerometer responsive to deceleration, he does disclose the use of a second

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mercury switch 24 that moves in response to the acceleration that will turn off the lamp 36 that is turned on by switch 14 (col. 2, lines 32-58). Rush discloses a sports helmet that includes a plurality of accelerometers 24, 25, 26 that are acted upon impact to the helmet to cause signaling lamps 13 to illuminate. When force is applied (acceleration/deceleration) to the helmet, one of the signaling lamps 13 will be actuated (col. 3, lines 1-63). Since both Tigwell and Rush disclose accelerometers placed within a helmet that are used in combination with lights to give an indication as to detected acceleration/deceleration to the helmet, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using one or more reference accelerometers, as disclosed by Rush, with the system of Tigwell, to ensure that any deceleration (or acceleration) that applied to the helmet, may be detected to give an indication that may be seen by nearby persons.

4. Claims 9-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tigwell in view of Rush, III (922) in view of DeBeaux (US Pat. 5,416,675).

In reference to claims 9, Tigwell discloses a) the claimed sensor portion adapted for sensing deceleration, which is met by any suitable type of accelerometer may be used to measure deceleration for actuating the light (col. 2, lines 10-31), b) the claimed light emitter portion, which is met by a light 10 located on a conventional motorcycle's helmet 12 (col. 2, lines 10-31; Figure1). Tigwell does not specifically disclose the claimed logic portion operably coupling the sensor portion and the light-emitting portion for switching the light-emitting portion based upon selected input from the sensor portion. DeBeaux discloses an illuminated helmet including a

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plurality of LEDs 50 that are actuated by an electronic control circuit 18 (col. 5, lines 42-59).

Although Tigwell does not specifically disclose the claimed at least one reference axis accelerometer responsive to deceleration, he does disclose the use of a second mercury switch 24 that moves in response to the acceleration that will turn off the lamp 36 that is turned on by switch 14 (col. 2, lines 32-58). Rush discloses a sports helmet that includes a plurality of accelerometers 24, 25, 26 that are acted upon impact to the helmet to cause signaling lamps 13 to illuminate. When force is applied (acceleration/deceleration) to the helmet, one of the signaling lamps 13 will be actuated (col. 3, lines 1-63). Since both Tigwell, DeBeaux and Rush disclose helmets including illumination, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate the teaching of using a plurality of light emitting means controlled by a logic portion as disclosed by DeBeaux, as well as using one or more reference accelerometers, as disclosed by Rush, both with the system of Tigwell, to ensure that any deceleration (or acceleration) that applied to the helmet, may be detected to give an indication that may be seen by nearby persons as well as include a pattern and timing of the lights that can be controlled during operation.

In reference to claims 10-12, Tigwell discloses the claimed circuit is affixed to headwear, which may be a motorcycle helmet or bicycle helmet, which is met by a light 10 located on a conventional motorcycle's helmet 12 (col. 2, lines 10-31; Figure1).

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5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

6. Applicant's arguments with respect to claims 1, 7, 9-12 and 16 have been considered but are moot in view of the new ground(s) of rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Davetta W. Goins whose telephone number is 571-272-2957. The examiner can normally be reached on Mon-Fri with every other Fri. off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel Wu can be reached on 571-272-2964. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



D.W.G.  
July 18, 2005

Davetta W. Goins  
Primary Examiner  
Art Unit 2632